

b.) Remarks:

Claims 21-29, 31-33, and 37 have been rejected as being anticipated by Suter. In support of the rejection the examiner has referred to the member 11 of Suter as comprising a body member having a base 16 flanked by a pair of substantially coplanar flanges 19. However, the flanges 19 not only are not part of the base 16, but hardly can be said to be substantially coplanar. As clearly is shown in Figures 1 and 6, the flanges 19 are spaced apart and parallel to one another; they are not coplanar.

The examiner has characterized the flanges [13 and 14] as constituting extensions unitarily joined to and projecting beyond one of the flanges [19]. However, the extensions 13 and 14 are not unitarily joined to either of the flanges 19.

Claim 21 also requires each of the coplanar flanges to have at least one slot therein. One flange 19 has a threaded bore, but the opposite flange has neither a bore nor a slot. The extension or flange 13 has a slot therein, but the companion extension or flange 14 does not.

Claim 21 also recites clamping means removably accommodated in the slots of the flanges for removably clamping the rest atop a support. One flange 19 of Suter has a threaded bore therein, as noted above, for accommodating a clamping bolt. The companion flange, however, has

neither a bore nor a clamping bolt. As indicated above, the extension or flange 13 has a slot therein, but the companion extension or flange 14 has none. Accordingly, neither of the parts 12 and 18 has anything corresponding to the construction claimed in claim 21.

All of the foregoing differences between Suter and the claimed invention are structural in nature.

It is not believed that the claims under consideration can properly be rejected under 25 USC 102(b) as being anticipated by Suter. As is set forth clearly in Section 2131 of the Manual of Patent Examining Procedure (MPEP) a claim can be anticipated only if each and every element set forth in the claim is found, either expressly or inherently, in a single prior art reference. Further, the elements must be arranged as required by the claim.

As has been pointed out above, Suter does not disclose many of the structural elements set forth in claim 21. Suter does not disclose a body member having a base flanked by a pair of substantially coplanar flanges. Neither does Suter disclose at least one slot in each of the flanges. Further, Suter does not disclose clamping means removably accommodated in the (non-existent) slots of the flanges. Thus, there are at least these structural distinctions between the construction set forth in claim 1 and the disclosure of Suter. Since these structural characteristics of applicant's construction are not present in Suter, they obviously cannot be arranged in the same

manner.

Since Suter does not disclose all of the structure recited in claim 21 or the claimed relationship of such structure, it is respectfully submitted that Suter does not and cannot anticipate claim 21. Claim 21, therefore, is respectfully submitted to be allowable.

Claim 22 depends on claim 21 and specifies that the support is arcuate and that the body member has a concave base for confronting and seating on such support. The examiner has characterized the Suter member 18 as being arcuate and takes the view that the body member 14 has a concave base. However, in support of the rejection of claim 21 the member [18] 19 was considered by the examiner to be the flanges and the member 14 as being the extension. It is not believed by applicant that the member 14 can be both an extension and a body member. Accordingly, reconsideration and withdrawal of the rejection of claim 22 are requested.

According to claim 23 the V-shaped notch is required to be in the extension. According to the examiner's analyses of Suter, however, the notch at the bottom of element 48 is an extension of the lever 46. In the rejection of claim 21 the examiner characterized Suter's member 14 as an extension and in the rejection of claim 22 the examiner characterized Suter's member 14 as a body member. As suggested above, the member 14 cannot be both. However, even if Suter's member 14 is considered to be an extension, the V-shaped notch is not in such extension. Instead, the

member having the notch is fixed to and supported by the lever 46. The claimed structure, therefore, is not disclosed by Suter. Claim 23, therefore, is respectfully submitted to be allowable.

Claim 24 depends on claim 21 and specifies that the clamping means comprises at least one flexible tie member of such length as to encircle both the support and the base. The examiner has characterized the member 38 of Suter as being a flexible tie member of such length as to encircle both the support and the base. It is not clear to applicant what part of Suter's disclosure is considered to be the base, but if it is the member 17 (as applicant believes it should be) the member 38 clearly does not encircle that base. Further, the member 38 of Suter is referred to by the patentee as a "gate" forming an end of a shank 36 and a bale (sic) 37. If the gate 38 is to be swung between the positions shown in Figures 2 and 4, the bail cannot be flexible. Claim 24, therefore, is respectfully submitted to be allowable.

Claim 25 specifies that the clamp means comprises a pair of clamp members coupled to the body member via the slots and extending therefrom in substantially parallel, spaced apart condition. The examiner earlier concluded that Suter discloses clamping means comprising a pair of clamp members (opposite sides of C-clamp 19) coupled to the body member 14 via slots and extending therefrom in substantially parallel, spaced apart condition. The member 14 of Suter now is characterized as a body member, rather than an extension. As stated earlier, it does not appear to applicant that the member 14 can be both a body member and an extension. Further,

Suter has no slots by means of which the C-clamp 19 is coupled thereto. Accordingly, it is respectfully submitted that claim 25 is allowable.

With respect to the characterizing of some parts of Suter as corresponding to parts recited in a first claim, and then recharacterizing the same parts differently in support of a rejection of a second claim, it is respectfully submitted that such practice is strong evidence that the reliance on the reference is based on hindsight. Particularly is this true in a case where, as here, the second claim depends on the first claim.

Claim 26 has been rejected on the same basis as claim 25. However, claim 26 recites a pair of clamp members and adjusting means reacting between such clamp members for adjusting the space therebetween. No corresponding structure is present in Suter. Accordingly, claim 26 is believed to be allowable.

Claim 27 depends on claim 26 and distinguishes over the latter by reciting an arm, connecting means connecting the arm at one end thereof to one of the clamp members, and means at the opposite ends of the arm supporting one end of the elongate article. The examiner characterizes Suter as disclosing an arm 46 connected at one end thereof to one of the clamp members. Earlier, however, the examiner characterized the C-clamp 19 as constituting the clamp members. Clearly, the arm 46 of Suter is not connected to the C-clamp 19. Claim 27, therefore, is believed to be allowable.

Claim 28 depends on claim 27 and distinguishes over the latter by specifying that the connecting means (by which the arm is connected to one of the clamp members) includes adjusting means. Even if the shortcomings of Suter as set forth above in connection with claims 25-27 are overlooked, there clearly is nothing in Suter which corresponds to the claimed connecting means having adjusting means. Claim 28, therefore, is considered to be allowable.

Claim 29 also depends on claim 27 and distinguishes over the latter by requiring the arm (first mentioned in claim 27) to be composed of multiple sections relatively extensible and retractable longitudinally of such arm, and latch means reacting between such sections for releasably latching the sections in any selected one of a number of adjusted positions. The examiner characterizes the lever 46 of Suter as comprising the arm and makes the observation that such arm 46 is composed of multiple relatively extensible and retractable sections. Applicant respectfully traverses this observation. Nothing in Suter even remotely suggests that the lever 46 is extensible and retractable. Claim 29, therefore, is respectfully submitted to be allowable.

The allowability of claim 30 is noted.

Claim 31 is an independent claim and differs from claim 21 in several ways, one of which is the recitation in claim 31 of the pair of confronting clamp members and adjusting means reacting between the clamp members for rocking them relative to the body member and varying the space therebetween.

Claim 31 distinguishes over Suter in many ways, not the least of which is the recitation of means coupling the body member and the confronting clamp members for rocking movements relative to the body member. There simply is nothing in Suter which even remotely corresponds to this recitation. Claim 31, therefore, is submitted to be allowable.

Claim 32 depends on claim 31 and recites a second extension extending in a direction away from the first extension. In support of this rejection the examiner has referred to Suter as disclosing a second extension 12 and connecting means 22 and 23. However, there does not appear to applicant to be anything in Suter's construction corresponding to the claimed first extension or to the first and second extensions extending in opposite directions. Claim 32, therefore, is considered to be allowable.

Claim 33 depends on claim 32 and distinguishes over the latter by requiring the body member to have openings therein and the coupling means to comprise projections carried by the clamp members and rockably accommodated in openings in the body member. The examiner has referred to Suter as having coupling means 141. It is believed the examiner intended to refer to 41, rather than 141. In any event, the member 41 in Suter is a latch actuator bar rotatably mounted on a pivot pin 42. It does not appear to applicant that the Suter construction has coupling means comprising projections carried by the clamp members, nor does it appear that such projections are rockably accommodated in openings in the body member. Reconsideration of the rejection of claim 32, therefore, is believed to be in order and is requested.

The allowability of claims 34-36 is noted.

Claim 37 has been rejected as being anticipated by Suter. This rejection is respectfully traversed. In support of the traverse it is submitted that Suter has nothing corresponding to a body member having a base flanked by a pair of substantially coplanar flanges each of which has at least one slot therein. Neither does Suter disclose a pair of substantially parallel clamp members having coupling means extending through the slots of the coplanar flanges for rockably coupling the clamp members to the body member. Neither does Suter disclose adjusting means spanning the clamp members operable to adjust the space between them. Accordingly, reconsideration and withdrawal of the rejection of claim 37 are requested.

Claim 38 depends on claim 37 and recites a second extension, second coupling means coupling the second extension to one of the clamp members, and requires the second extension to extend in a direction away from the body member and generally opposite the direction in which the first extension projects from the body member. The examiner's discussion of claim 37 has been grouped with that relating to claims 21 and 31. Again, however, nothing in Suter corresponds to the body member having a base flanked by a pair of substantially coplanar flanges each of which has at least one slot therein. Neither is there anything disclosed by Suter corresponding to coupling means carried by the clamp members and extending through the slots. Accordingly, claim 38 cannot properly be characterized as being anticipated by Suter.

Claim 38 also distinguishes over Suter by the recitations of a

second extension and second coupling means coupling the second extension to one of the clamp members. Nothing in Suter corresponds to or even suggests a second extension coupled to one of the clamp members. Claim 38 also specifies that the second extension extends in a direction away from the body member and generally opposite the direction in which the first extension projects from the body member. There clearly is nothing in Suter corresponding to these recitations. Claim 38, therefore, is believed to distinguish patentably over Suter.

Claim 39 depends on claim 38 and distinguishes over the latter by requiring the second extension to have a plurality of relatively adjustable sections and releasable latch means for releasably maintaining the sections in a selected one of a number of adjusted positions. In view of the limitations relating to the location of the second extension and the direction in which it extends from its associated clamp member, there is nothing in Suter which even remotely corresponds to these limitations. Claim 39, therefore, is believed to be allowable.

Claim 40 depends on claim 38 and requires the adjusting means and the second coupling means to be the same. This is a dual function recitation which has no counterpart at all in Suter. Claim 40, therefore, is considered to be allowable.

The foregoing remarks demonstrate clearly that Suter does not disclose each and every element set forth in each of the rejected claims, nor does Suter disclose the arrangement of elements as is recited in such claims, all as is required by §2131, MPEP. This being the case, the rejection

of these claims as being anticipated by Suter cannot be sustained.

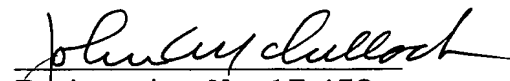
This application is believed to be in condition for allowance.

Further and favorable action is requested.

The Office is authorized to charge or refund any fee deficiency or excess to Deposit Account No. 50-2676.

Respectfully submitted,

Terry M. Howley
By his attorney,


Registration No. 17,452
John K. McCulloch
5291 Colony Drive North
1st Floor
Saginaw, Michigan 48603
989-792-2500

CUSTOMER NO: 000042083